

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2018-_____

IN RE:

Joint Application of Duke Energy
Carolinas, LLC, Duke Energy Progress,
LLC, and South Carolina Electric & Gas
Company for Executory Transfer and Sale
of Property

JOINT APPLICATION

In order to permit Duke Energy Carolinas, LLC (“DEC”), Duke Energy Progress, LLC (“DEP”), and South Carolina Electric & Gas Company (“SCE&G”) (collectively, the “Companies”) to participate in the Regional Equipment Sharing for Transmission Outage Restoration (“RESTORE”) program, the Companies hereby request approval from the Public Service Commission of South Carolina (“Commission”) for the executory transfer of electric transformers and other critical transmission-related equipment with a fair market value of greater than one million dollars, as provided for by the agreement governing that program (“RESTORE Agreement”).

The RESTORE Agreement, filed herewith, provides for the efficient and timely bilateral transfer of electric transformers and other critical transmission-related equipment (“Qualifying Equipment”) between RESTORE program participants (“RESTORE Participants”) following a catastrophic event in order to provide mutual assistance in the restoration of secure and reliable grid operations more quickly and efficiently. The Companies submit this application pursuant to S.C. Code Ann. § 58-27-1300, which requires that utilities obtain approval from the Commission

in order to “sell, assign, transfer, lease, consolidate, or merge its utility property” with a fair market value of over one million dollars. The Companies respectfully submit that this request is consistent with the public interest because the purpose and expected effect of the RESTORE Agreement is to enhance the reliability and resilience of the electric transmission grid on a timely and cost-effective basis, which will contribute to system reliability and to lower overall cost of service to customers.

BACKGROUND

The RESTORE Participants entered into the RESTORE Agreement in order to provide a framework for the efficient transfer of critical transmission-related equipment following defined disaster response and recovery events (“Triggering Event”).¹ The importance of a strategic transformer reserve has been identified in several recent studies and reports, including the Department of Energy’s (“DOE”) Strategic Transformer Report to Congress in 2017 discussed below. Since the initiative began, the RESTORE Agreement has expanded to include a total of twenty-eight participating utilities. The Companies submit this request in order to expedite and streamline the regulatory filing requirements for certain transfers under the RESTORE Agreement. Filings pertaining to this matter have also been made by the RESTORE Participants with the Federal Energy Regulatory Commission (“FERC”) in Docket No. EC18-32-000, and by DEC and DEP with the North Carolina Utilities Commission in Docket Nos. E-7, Sub 1171 and E-2, Sub 1172. FERC authorized transfers under the RESTORE Agreement for all participating utilities on

¹ Section I.JJ of the RESTORE Agreement defines a “Triggering Event” as “a catastrophic event creating an urgent grid need in which, for an extended period of time, a Participant loses its ability to serve significant load, is at imminent risk for losing significant load, or cannot maintain grid stability.”

April 3, 2018,² and the North Carolina Utilities Commission authorized transfers under the RESTORE Agreement for DEC and DEP on April 18, 2018.³

The RESTORE Agreement is intended to be complementary to the Edison Electric Institute's Spare Transformer Equipment Program ("EEI STEP Program")⁴ and the program initiated by Grid Assurance, LLC⁵ by providing additional resources for utilities seeking critical equipment during disaster recovery events, thus enhancing the resilience and reliability of the power grid.⁶ The Commission granted approval under S.C. Code Ann. § 58-27-1300 for DEC to participate in the EEI STEP Program in 2006.⁷ The RESTORE Agreement is not intended to replace these other arrangements. As with the EEI STEP Program, if the Companies were required to seek approval from the Commission of a transfer of Qualifying Equipment following a Triggering Event under S.C. Code Ann. § 58-27-1300, the time required to prepare and file an application and to receive authorization could significantly delay a buyer's ability to place its transmission system back in service. By granting prior approval of the transfer of Qualifying Equipment, coupled with a requirement that the Companies make a timely filing with the Commission reporting transactions of over one million dollars in value, the Commission will help

² *Jurisdictional Regional Equipment Sharing for Transmission Outage Restoration Participants*, 163 FERC ¶ 61,005 (2018).

³ *In the Matter of Duke Energy Carolinas, LLC and Duke Energy Progress, LLC Advance Notice of Affiliate Agreement between Duke Energy Carolinas, LLC and Duke Energy Progress, LLC*, Docket No. E-2, Sub 1172, Docket No. E-7, Sub 1171 (Apr. 18, 2018).

⁴ *See Edison Electric Institute*, 116 FERC ¶ 61,280 (2006).

⁵ *See Grid Assurance, LLC*, 152 FERC ¶ 61,116 (2015).

⁶ SCE&G is neither a participant in the EEI STEP Program nor the program initiated by Grid Assurance.

⁷ Commission Order No. 2006-405, Docket No. 2006-156-E (issued July 11, 2006).

ensure that an impacted utility can restore its system to operation as quickly and transparently as reasonably possible, thus protecting customers from prolonged outages or the threat thereof.

I. FAST ACT and DOE Report

Section 61004 of the Fixing America's Surface Transportation Act (Pub. L. No. 114-94), 129 Stat. 1780 ("FAST Act"), required that certain federal entities, including DOE, the Federal Energy Regulatory Commission, the North American Electric Reliability Corporation, and others, "prepare and submit to Congress a plan to establish a Strategic Transformer Reserve for the storage, in strategically located facilities, of spare large power transformers and emergency mobile substations" Pursuant to the FAST Act, the DOE submitted the "Strategic Transformer Reserve" report to Congress in March 2017, in which it recommended "encouraging and supporting an industry-based option driven by voluntary industry actions and North American Electric Reliability Corporation's Reliability Standard CIP-014-2 requirements"⁸ The policies reflected in the FAST Act and the DOE Transformer Report informed the development of the RESTORE Agreement as a proactive industry-based measure consistent with DOE's recommendations.⁹

⁸ U.S. Department of Energy, *Strategic Transformer Reserve: Report to Congress*, at p.ii (March 2017), available at <https://energy.gov/sites/prod/files/2017/04/f34/Strategic%20Transformer%20Reserve%20Report%20-%20FINAL.pdf> ("DOE Transformer Report").

⁹ See FAST Act at § 61004(c)(2)(C) (requiring DOE Strategic Transformer Reserve Plan to include a description of "the degree to which utility sector actions or initiatives, including individual utility ownership of spare equipment, joint ownership of spare equipment inventory, sharing agreements, or other spare equipment reserves or arrangements, satisfy the needs identified . . .") (emphasis added); U.S. Department of Energy, *Staff Report to the Secretary of Electricity Markets and Reliability*, at p. 10 (August 2017), available at https://energy.gov/sites/prod/files/2017/08/f36/Staff%20Report%20on%20Electricity%20Markets%20and%20Reliability_0.pdf ("[F]urther efforts should . . . quickly establish the market means to value or the regulatory means to provide them.") ("DOE Grid Study").

II. DESCRIPTION OF RESTORE AGREEMENT AND RESTORE PARTICIPANTS

A. Introduction of Agreement

The RESTORE Agreement is submitted for informational purposes as Exhibit A to this filing.¹⁰ The RESTORE Agreement is available to utilities that qualify as “transmission owners that provide a regional benefit to existing [RESTORE Participants] and who are willing and able to contribute Equipment to Pools in Equipment classes in accordance with the terms and conditions of the [RESTORE] Agreement” and who satisfy certain other criteria set forth in the RESTORE Agreement.¹¹ The RESTORE Agreement requires, among other things, that its participants have the regulatory authorization necessary to sell, or cause to be sold, Qualifying Equipment pursuant to the agreement. The scope of equipment to be transferred under the RESTORE Agreement is currently limited to transformers of various classes, but other types of equipment may be included in the future in accordance with the terms and conditions of the RESTORE Agreement. Such equipment could include, for example, breakers or switches, but would not include any generation equipment.

There is a detailed process for participants purchasing equipment under the RESTORE Agreement, which, in brief, involves the participant notifying an Operating Committee of an event; the Operating Committee evaluating the event to determine whether it is a Triggering Event under the agreement; the Technical Committee making a recommendation to the Operating Committee

¹⁰ The Companies are submitting the RESTORE Agreement in its entirety, including all Appendices, except for Appendix B to the RESTORE Agreement, which lists the specific equipment (including serial numbers) committed by each RESTORE Participant under the RESTORE Agreement. The specific list of equipment and serial numbers is likely neither relevant nor helpful to the Commission’s decision under S.C. Code Ann. § 58-27-1300.

¹¹ See RESTORE Agreement at Section II.A.

of which spare equipment from the pool should be purchased; the Technical Committee publishing considerations, factors, or other procedures for the determination of which specific equipment should be purchased; the participant exercising its Call Rights to purchase the equipment; and the purchasing participant and selling participant executing a purchase and sale agreement.¹² The equipment must be purchased at net cost based on information reasonably available to the seller at the time of the closing; net cost includes the purchase price plus reimbursable costs. Defined more precisely in the RESTORE Agreement, the purchase price is equivalent to the replacement costs of the equipment, and reimbursable costs include costs to prepare the equipment for transfer to the purchasing participant and the associated tax liability.

B. Relationship Between the RESTORE Program and the EEI STEP Program

The RESTORE Agreement complements and supplements existing sparing agreements such as the EEI STEP Program. Like those programs, the RESTORE program allows participants to assist each other in quickly restoring their respective grids following a disaster by prearranging to transfer available equipment quickly and cost-effectively. Similar to the EEI STEP Program, participation is voluntary and open to participants meeting certain contractual commitments and qualifications to join. However, while the EEI STEP Program defines the Triggering Event as a presidentially declared state of emergency, the RESTORE program allows for the proposed transfers to be triggered by a wider scope of disasters by defining a Triggering Event as “a catastrophic event creating an urgent grid need in which, for an extended period of time, a RESTORE Participant loses its ability to serve significant load, is at imminent risk for losing

¹² The RESTORE Agreement contains APPENDIX D – FORM OF PURCHASE AND SALE AGREEMENT PURCHASE AND SALE AGREEMENT to be used for this purpose.

significant load, or cannot maintain grid stability.”¹³ Thus, a Triggering Event under the RESTORE Agreement could occur after a major storm or weather event that meets the RESTORE Agreement’s definition but does not rise to the level of a presidentially declared state of emergency as required by the EEI STEP Program.

III. REQUEST FOR APPROVAL AND REPORT COMMITMENT

A. Request for Approval of Executory Transfers

The Companies request prior approval from the Commission under S.C. Code Ann. § 58-27-1300 to make executory transfers of Qualifying Equipment, pursuant to the RESTORE Agreement, with a fair market value of over one million dollars. Although all Qualifying Equipment transferred under the RESTORE program may not exceed the one million dollar threshold, it is conceivable that, following a catastrophic event “activating” the provisions of the RESTORE Agreement, such exigent transfers would likely exceed that amount.

Advance approval of transfers of jurisdictional facilities is consistent with Commission practice. As noted above, the Commission has previously authorized DEC to participate in the EEI STEP Program and make executory transfers and sales pursuant to the related governing agreement consistent with S.C. Code Ann. § 58-27-1300.¹⁴ As with the EEI STEP Program, the Companies believe that, given the catastrophic nature of a Triggering Event and the need to efficiently implement a response, there would not be sufficient time to apply to the Commission for approval and still meet the commitments of the RESTORE Agreement in a timely manner.

¹³ RESTORE Agreement at Section I.JJ.

¹⁴ Commission Order No. 2006-405, Docket No. 2006-156-E (issued July 11, 2006).

More recently, the Commission granted approval for the transfer of certain spare parts between DEC and DEP in order to coordinate and optimize the management of their respective inventories and “create potential maintenance outage cost savings through the transfer of [spare] parts between them at fair market value.”¹⁵ As in that case, the request for relief set forth within this application would not involve a change to any of the Companies’ retail rates or prices at this time or require any change in any Commission rule, regulation, or policy. Unlike that case, rather than granting approval for transfers between solely DEC and DEP, the Commission’s approval would permit the Companies to transfer specific critical equipment between and among twenty-eight participating utilities (and any subsequent participants that may join RESTORE), pursuant to the RESTORE Agreement, following a catastrophic event.

For these reasons, the Companies believe that the approval sought in this application for executory transfers and sales of Qualifying Equipment pursuant to the RESTORE Agreement is reasonable and prudent, consistent with Commission practice, and will serve the best interests of the Companies’ customers and all citizens of South Carolina.

B. Post-Transfer Report Commitment

While the Companies request approval for executory transfers under the RESTORE Agreement, they also commit to informing the Commission of transfers after they occur. Specifically, the Companies commit to submitting reports to the Commission within thirty (30) days following a transfer under the RESTORE Agreement that has a fair market value of greater than one million dollars, consistent with the requirements of S.C. Code Ann. § 58-27-1300. The

¹⁵ Commission Order No. 2016-523, Docket No. 2016-252-E (issued Aug. 2, 2016).

Companies further commit to submitting reports to the Commission within six (6) months after the closing of such transactions. The Commission's prior approval for the Companies to participate in the RESTORE program and to transfer Qualifying Equipment that has a fair market value of greater than one million dollars, combined with a timely reporting requirement once transfers take place, will ensure that an impacted utility can restore its system to operation as efficiently and transparently as reasonably possible.

The Companies further acknowledge their obligations to comply with S.C. Code Ann. § 58-27-2090 if and when seeking recovery of costs arising out of any transfers between the Companies or affiliates under the RESTORE Agreement. The Companies believe that, because the transfers of Qualifying Equipment are governed by the detailed provisions of the RESTORE Agreement, the transactions occur at-cost, and the transactions are closely coordinated by the RESTORE Technical Committee and Operations Committee, as described above, the process of equipment transfers through the RESTORE program are inherently reasonable, fair, and beneficial to the public interest.

CONCLUSION

Pursuant to S.C. Code Ann. § 58-27-1300, a copy of this application has been served upon the Office of Regulatory Staff.

WHEREFORE, it being in the public interest, the Companies respectfully request that the Commission enter an Order approving the executory transfer and sale of utility property as described herein.

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